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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

5 GREAT-WEST LIFE & ANNUITY
6 INSURANCE COMPANY, and
7 MEDIVERSAL, INC.

8 Plaintiff,

9 vs.
10 AMERICAN ECONOMY INSURANCE
11 COMPANY and COLORADO
12 CASUALTY,

13 Defendants.

14 CASE NO: 2:11-cv-02082-KJD-CWH

15 **[PROPOSED] ORDER ON DISCOVERY
16 MOTION (ECF NO. 138) AND THE
17 DECEMBER 30, 2013 DISCOVERY HEARING**

18 (And related counterclaims)

19 On December 30, 2013 the Court held a hearing on “Defendants’ Motion For Discovery
20 Sanctions And Motion To Compel Against Plaintiffs Because Of Their Failure To Cooperate In
21 Discovery Seeking Information About Mediversal’s Core Business Activities, Which Are Relevant
22 To The Disputed Insurance Coverage Issues” (ECF No. 138).

23 The Court has reviewed the motion, Plaintiffs’ response (ECF No. 147), and Defendants’
24 reply in support of the motion (ECF No. 150). The Court held a discovery hearing on the motion
25 and other discovery issues on December 30, 2013 and heard argument from counsel during the
26 hearing. The Court’s Minutes of Proceedings from the hearing are contained in ECF No. 179.
27 Having been fully advised on the motion, the Court orders as follows:

28 1. Plaintiff Mediversal, Inc. (“Mediversal”) designated its former president, Koner
29 Bills, as its representative for purposes of giving deposition testimony in this action pursuant to
30 Rule 30(b)(6) on March 27, 2013.

31 2. The Court is not persuaded that Mr. Bills was fully prepared to give testimony
32 with respect to certain topics. His testimony at the March 28, 2013 deposition of Mediversal did
33 not reflect his true knowledge of the subject matter. The Court therefore declines to accept his
34 testimony at trial.

not fully meet the requirements of Rule 30(b)(6) with respect to the following four topics: (i) quality assurance review work; (ii) utilization review work; (iii) contractual obligations to Coast Casinos; and (iv) Mediversal's insurance agency registration and its utilization review license. (Hearing Tr., Dec. 30, 2013 at 33:17-34:6.)

3. The Court finds that it would be unfair and not permitted under standards governing Rule 30(b)(6) depositions for the corporate deponent to present another witness on these four particular topics to provide testimony that is inconsistent with Mr. Bills's testimony or that goes beyond the scope of his testimony with regard to the questions posed to him.

4. For that reason, the Court orders that Mediversal is precluded from admitting evidence that contradicts or goes beyond Mr. Bills's testimony with respect to the questions posed to him that fall within the four topics identified above in Paragraph 2. Such preclusion applies only to require Mediversal to give the same evidence that Mr. Bills gave with respect to the questions actually posed to him falling within the four topics identified above in Paragraph 2 of this order.

5. This order does not preclude Mediversal from presenting or admitting evidence that is outside the scope of the questions actually posed to Mr. Bills at the March 27, 2013 Rule 30(b)(6) deposition.

DATED February, 13, 2014.

C.W. Hoffman, Jr.
United States Magistrate Judge